

**THE STATE RESPONSIBILITY TO THE HUMAN  
TRAFFICKING VICTIMS FROM HUMAN RIGHT  
PERSPECTIVE**

**JOURNAL**



**ANY SURYANI H  
REG. 0930101001**

**DOCTORAL STUDY PROGRAM OF LEGAL SCIENCE  
FACULTY OF LAW  
BRAWIJAYA UNIVERSITY  
MALANG  
2013**

# **THE STATE RESPONSIBILITY TO THE HUMAN TRAFFICKING VICTIMS FROM HUMAN RIGHT PERSPECTIVE<sup>1</sup>**

Any Suryani.H.<sup>2</sup>, Sudarsono<sup>3</sup>, M.Ridwan<sup>4</sup>, Prija Djabatmika<sup>5</sup>

## **ABSTRACT**

The state responsibilities to the human trafficking victims is not suitable with the goals of Indonesian Republic that based on Pancasila and Constitution of Indonesian Republic. So it needs affirmation about the state responsibilities to the human trafficking victims from the human rights perspective since the form of responsibility, that is institutional, laws and regulations related with the human trafficking, reasons of the victims to demand the state responsibility and the state responsibility to the human trafficking victims of foreign citizen.

keywords: State Responsibility, Human Trafficking Victims, Human Right

---

<sup>1</sup> Research Results of Dissertation

<sup>2</sup> Student of Doctoral Program of Faculty of Law of Brawijaya University

<sup>3</sup> Professor of Constitutional Law of Faculty of Law of Brawijaya University (Promoter)

<sup>4</sup> Lecturer of Constitutional Law of Faculty of Law of Brawijaya University (Co-Promoter)

<sup>5</sup> Lecturer of Criminal Law of Brawijaya University Co - Promoter

## INTRODUCTION

Indonesia is one sovereign country in the international environment, and honors the law and human rights. In the state life Indonesia is obliged to protect all of its citizens from various colonialism and threats either domestic or foreign. Beside that, Indonesia participates and understands the occurred international issues in the globalization process either in politic, economic, legal and socio cultural fields by prioritizing the national interests. It is one of the goals of Indonesian country.

According to Plato, the state goals are to fulfill the needs that can not be fulfilled by humans themselves individually, then the state is formed.<sup>1</sup> And also, Aristotle stated that state is formed and maintained because aims to celebrate the good life for all citizens. In his "politic", Aristotle wrote as follows:<sup>2</sup>

"every state is a community of some kind, and every community if established with view to some good, for mankind always act in order to obtain that which they think good. But if all community aim at some good, the state of political community, which is the highest of all which embraces all the rest, aims at good in a greatest degree than any other, and the highest good. The comes into existence originating in the bare needs of life

and continuing in existence for the sake of good life.

The reality above is the embodiment of the state goals as given in the preamble of the Constitution of Indonesian Republic 1945 of paragraph IV stated that,<sup>3</sup>

"Pursuant to which, in order to form a Government of the State of Indonesia that shall protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation's intellectual life, and to contribute to the implementation of a world order based on freedom, lasting peace and social justice, Indonesia's National Independence shall be laid down in a Constitution of the State of Indonesia, which is to be established as the State of the Republic of Indonesia with sovereignty of the people and based on the belief in the One and Only God, on just and civilized humanity, on the unity of Indonesia and on democratic rule that is guided by the strength of wisdom resulting from deliberation / representation, so as to realize social justice for all the people of Indonesia"

Based on the state goals as contained in the paragraph IV of Preamble of the Constitution Year 1945 above, it is figured that Indonesia follow the state of law in wide meaning is welfare state, so the state responsibilities not only protection but also as agency of services and embody the welfare<sup>4</sup>.

---

<sup>1</sup> F. Isjwara, Introduction of Political Science (Bandung: Bina Cipta Publisher, 1971), page 80-81

<sup>2</sup> Ibid

---

<sup>3</sup> Indonesia, Constitution of Indonesian Republic Year 1945, Preamble of Paragraph IV

<sup>4</sup> Mac Iver. The Modern State (London, Oxford University Press, 1950) page 4

One of emerging problems in the development implementation is the human trafficking. The victims of human trafficking are citizen that do not have abilities to develop resources, weak in economic and education, they can be categorized as susceptible groups that are marginalized either socially, culturally and structurally especially women and children. Human trafficking is caused by many factors that related with the development implementation such as limited employments, uneven educational access, high basic needs price and development in some sectors that are not correlated with the resources availability in the development site such as tourism and mining exploration.

Trafficking relates with the human right violation because the consequences of the trafficking, the victims lost their dignity as human being, and the victims have difficulties in reorganizing their life socially or personally. The human trafficking issues in the last decade become the highlight in various parties in national or international level, the observers observe various things

related with the human trafficking, either from the preventive aspects, trafficker, the law enforcer and the victims, and recovery and rehabilitation and reintegration of the victims of the human trafficking.

Theoretically, the goals of the state of law is to honor the legal system that will ensure the legal certainty and the protection to the people rights and implement the public welfare. The theory has essence that law is supreme and the duty for the state officials to obey the law. Not authorities above the law<sup>5</sup>. State of law principally wants all actions of the ruler has clear legal foundations or good legality based on written or non written law. The principle of the state of law according to Krabbe:

"State aims to celebrate the legal order and based on law. In the state of law, all power of governmental organs based on the law. All people – without exception – must obey and loyal to the law (government not by man, but by law = the rule of law). People can not act as they want and against the law. In the state of law, peoples rights are ensured fully by the state, and people are demanded to obey all governmental regulations"

In the Indonesian state context, Philipus M Hadjon stated that the recognition to the

---

<sup>5</sup> Bagir Manan. Presidential Institution (Yogyakarta: FH UII Press, 2006) page 9-10

human dignity in the state of law of Indonesia, intrinsically adhere to Pancasila and sourced at Pancasila. Depart from the Pancasila philosophy then Hadjon formulated elements of state of law of Pancasila as follows (1) aptitude between government and the people based on harmony (2) proportional functional relation among state powers, (3) conflict solving principle based on discussion and judicature as the final ends, (4) balance between rights and duties.<sup>6</sup>

The goal of Indonesian state according to Isrok, consist of two<sup>7</sup>

- 1) General goals, to realize equitable and prosperous society (resources public or public interest of Indonesian nation)
- 2) Special goals, based on paragraph IV of the Constitution Preamble of Indonesian Republic 1945 stated that Indonesian goals
  - a. protect all the people of Indonesia and all the independence and the land that has been struggled for,
  - b. to improve public welfare,
  - c. to educate the life of the people and
  - d. to participate toward the establishment of a world order based on freedom, perpetual peace and social justice

In the state context today, especially that related with the state function, structure, and institution, especially related with

authorities, task, duties and responsibility of state tend to figure the weak institutional function and the messy of law enforcement in Indonesia. One of examples, handling of women and children, the law enforcement problem become the certain point and become the red notice when talking about the victims, the legal perspective that is established so far about the crime done by trafficker. When talking about the victims handling, there are role overlaps of institution in the state but no one that work optimally because the lack of coordination among the institutions and sector ego of each institution.

Theoretically, state has duties and responsibilities to protect all citizen without exception but in the fact in the context of the human trafficking, there is inconsistency in the implementation of the state responsibilities to the citizen. The victims are Indonesian citizen that have same rights and position with others but in the fact the victims are often be ignored and get discriminated treatment in accessing the

---

<sup>6</sup> Philipus M Hadjon. The Law protection to people (Bina Ilmu: Surabaya, 1987), page 45

<sup>7</sup> Isrok and Dhia Al Uyun, State Science in the abstract world (Malang: UB Press, 2010) page 59

services they need so produce injustice for the victims.

Correlation between job and human trafficking is very close, that is the need of job and job opportunities cause many people including women and children are trapped into human trafficking, the condition is also supported by the origin place does not have opportunities to improve economic, beside that the role of skill become trafficking, their existence get acknowledgement from society<sup>8</sup>

Legal problem. Law No 21 Year 2007 about the Prevention of Human Trafficking Crime (UUPTPPPO) only regulates in general but does not give the details about the women and children victims. In the implementation level, the traffickers are often be released because no enough evidences, while the victims are often be ignored especially covert trafficking. The handled victims only them whose the trafficking form are contained in the Law No 21 Year 2007 about the Prevention of Human Trafficking

Crime while the victims of covert trafficking not included.

Law No 21 Year 2007 about the Prevention of Human Trafficking Crime aimed to prevent and overcome the trafficking crime early. The Regulation of Women Empowerment Minister No 2 Year 2010 about the Action Plan and Taskforce Establishment for Human Trafficking Handling.

Beside the taskforces formation and institutionalization so far in effort to handle the victims only based on the Collective Decision Letter (SKB) of Three Ministers and Indonesian Police Head No : b/3408/x/2002, that occurred in the implementation of victim handling still multi institution in nature so there are activities overlapping in the operation so not effective because full of sector ego. The SKB up to now be used in the victim handling.

The stipulation of the regulation placed duties for the state to overcome various forms of violence and discrimination to the citizen especially women and children. The prevail of Law NO 21 Year 2007 about Prevention of Human Trafficking Crime not

---

<sup>8</sup> Sumiati Sahala, Children and Women Trafficking based on T.O. C Convention Protocol. Report. (National Legal Development Agency, Law and Human Right Department, 2004) page 5.

necessarily implement the state rights to the trafficking victims, recall the mandate of the stipulation do not confirm clearly about the institution power, task and duties of the task force members and the responsible person of the institution either in central or local level. The state responsibilities in fact still produce basic problems especially related with the prevention and the handling of the victims, far from human rights, because the perspective come in the law tend to punish the trafficker, while the victims only those identified by the law that are handled.

The responsibilities and authorities of the institution that represents the state is not determined firmly in the laws and regulation, so the victims become increase along with the void of norms that related with the state responsibility, beside that the obstacle in the victims handling operation is budget, so who is responsible for the budget? The existing legal umbrella only regulate globally at the appointed institutions. The situation and condition of course contrary with the responsibility concept. From the situation figure above in the legal aspect when talk

about norm that become the reference that related with the state responsibility become absurd norm.

### **Problem formulation**

"How the state responsibilities to the human trafficking victims from the human right perspective?"

## **2. METHODOLOGY**

The research used normative law method, that is legal research that done by researching the literatures or secondary data, according to Bahder Johan Nasution, is research that investigates legal problems<sup>9</sup>. The statute approach, Conceptual approach, Philosophical approach.

## **3. RESULTS AND DISCUSSION**

The state responsibilities to the human trafficking victims from the human right perspective.

The state responsibilities can not be separated from the goals of the state establishment, as determined in the Constitution 1945 of paragraph IV, the

---

<sup>9</sup> Johan Bahder Nasution, Legal Research Method (Bandung, Mandar Maju, 2008), page 84

Indonesian state goals are to protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation's intellectual life, and to contribute to the implementation of a world order based on freedom, lasting peace and social justice, Indonesia's National Independence shall be laid down in a Constitution of the State of Indonesia, which is to be established as the State of the Republic of Indonesia with sovereignty of the people and based on the belief in the One and Only God, on just and civilized humanity, on the unity of Indonesia and on democratic rule that is guided by the strength of wisdom resulting from deliberation / representation, so as to realize social justice for all the people of Indonesia.

About the state responsibilities are confirmed by Asbjorn Eide in one of his writing, as follows

Under international law, duties to human rights are primarily led by state. When state seek to implement the duties in the national law, they are required to impose duties on persons subject to their jurisdiction. Duties to respect the right of other persons, and duties to contribute to common welfare, make it possible for

the state to assist and provide the way which enable to enjoy their economic, social and cultural rights.<sup>10</sup>

Constitution 1945 of paragraph IV, the Indonesian state goals are to protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation's intellectual life, and to contribute to the implementation of a world order based on freedom, lasting peace and social justice, Indonesia's National Independence shall be laid down in a Constitution of the State of Indonesia, which is to be established as the State of the Republic of Indonesia with sovereignty of the people and based on the belief in the One and Only God, on just and civilized humanity, on the unity of Indonesia and on democratic rule that is guided by the strength of wisdom resulting from deliberation / representation, so as to realize social justice for all the people of Indonesia.

State is a area or region on the earth surface where exist a government that regulate economic, politic, socio cultural,

---

<sup>10</sup> Asbjorn Eide, Economic, Social and Cultural Rights as Human Rights, A Textbook, martinus, Nijhooff, Dordrecht (Boston, London, 1995) page 35.



security and defense, and etc. State is entity that formed by communities with one goals to protect and prosper the people.

Effort to prevent the human trafficking with various concrete, effective steps, protect, honor and enforce the law and punish the trafficker fairly.

If there are victims, state should take effort to handle and recover the victims. From the explanation above there are four (4) dimension of state responsibilities to the victims (1) trafficking prevention (2) victims handling (3) victims recovery (4) victims reintegration.

The concrete steps to overcome the main causes of the trafficking that relate with the ignorance of the state.

#### 1. Economic factors

The poverty condition and minimum job opportunities encourage millions of Indonesian take alternative ways to migrate to find jobs to fulfill their life needs. Beside that, the governmental policy change in economic development that prioritizes the industrial based

economic than the agrarian based economic.

#### 2. Educational factors

Minimizing the understanding about the patriarchy culture as one of factors to the occurred human trafficking. The patriarchy culture is culture that consider the male child have excellences than female children especially in its relation with the access to family wealth and education. The social culture influence to the policy that finally will marginalize the women.

3. Prevent the trafficking efforts in the business because the business does not need much capital, just by persuading the victims or trapped the victims in the debt, but will bring much profit. So many persons fixated to do human trafficking. The business, especially sex business, errand bride, contract wedding in the women migrant worker, and the narcotic distribution.

4. Population administration in Indonesia experience value degradation where many falsifications done consciously to

facilitate the work finding. The identity work finding related with the age, status, education and address.

The state officials in the human trafficking but in the administrative law perspective correlate with the politic that done to the citizen, how the state implement the good public services for the citizen, and how the society access the public services, one of them by complete information about something that related with the human trafficking.

#### **a. State responsibilities**

##### **1) Institution that handle the human trafficking**

1. The witness and victims protections institution
2. Special services room (UPPA /RENATA) unit in police. The Indonesian Police Head No 10 Year 2007
3. Formation of integrated services center
4. Task force for prevention and handling of trafficking victims

Presidential Decision No 69 Year 2008 by is chaired Coordinator Minister of People Welfare and with the daily chairman of Minister of Women Empowerment and Children Protection, while the members come from the deputies from government, law enforcer, societal organization, non governmental organization, professional profession, researchers/ academic

#### **2) Legal framework to handle trafficking in Indonesia**

1. Law No 21 Year 2007
2. Law No 7 Year 1984 about Ratif. Konv. CEDAW
3. Law No 6 Year 2011 about Immigration
4. Law No 39 Year 1999 about Human Rights
5. Law No 39 Year 2004 about PPTKILN
6. Law No 13 Year 2006 about Witness and Victims Protection

7. Law No 23 Year 2002 about Children Protection
8. Law No 13 Year 2003 about Labor
9. Law No 36 Year 2009 about Health

The general goals of the laws and regulation above are to protect all Indonesian people and honor and protect the human rights.

The special goals are to prevent the trafficking that formulated firmly in the Law No 21 Year 2007, while the children protection and trafficking are regulated in the Law No 23 Year 2004, Law No 39 Year 2004 that regulate the mechanism of women migrant worker in abroad, because Law of women migrant worker placement is the source of the women trafficking. Law No 9 Year 2009 about immigration regulates about migration from and to abroad.

The disharmony of the existing laws and regulation is different definition about trafficking that related with the children trafficking. Law PTPPO & Law of Children Protection.

The context of state responsibility to the victims in the Law No 21 Year 2007 is not

figured clearly, especially about the children protection, the victims approval is the reason for the human trafficking and repatriation norm still void. Beside that Law of PTPPO is not followed with the implementing regulation that an not stand by itself because still depend on the other relevant regulations.

## **b. Concept of State Responsibilities In The Future**

The concept of state responsibilities to the human trafficking is the passive responsibilities because general in nature to the victims in general, while human trafficking is special crime that is transnational in nature that is related with the human crime dimensions, so needs renewal about the state responsibility concept that prioritizes the justice and human rights. In effort to handle the victim of human trafficking, the appropriate responsibilities are human right based responsibilities.

### **1) The Victims Reasons To Ask State Responsibilities**

- a) The preamble of Constitution 1945, that states the formation of Indonesia is to

protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation's intellectual life, and to contribute to the implementation of a world order.

- b) Chapter X A Constitution of 1945 about human right, article 28 I subsection (4)  
The protection, advancement, upholding and fulfillment of human rights are the responsibility of the state, especially the government. That is the responsibilities and duties of the state to the citizen.
- c) Law No 39 Year 1999 about human rights.
  - Chapter II. Article 8: "The principal responsibility for protecting, promoting, upholding, and fulfilling human rights lies with the Government"
  - Chapter V. Article 71. The government shall respect, protect, uphold and promote human rights as laid down in this Act, other legislation, and international law concerning human rights ratified by

the Republic of Indonesia.

Article 72. The duties and responsibilities of the government as referred to in Article 71, include measures towards effective implementation in law, politics, economics, social and cultural aspects, state security, and other areas.

## **2) The rights of the trafficking victims**

It can be said that the protection to the criminal victims is one of governmental duties to the citizen. Some countries also have given attention about the victims right to obtain compensation for the physical, psychological and social loss as the consequences of the crime.

The services to the victims essentially is effort of social welfare where the implementation should be followed by each societal members suitable with abilities of each societal members not only on government. Society should responsible morally to do the victims of the crime. The victims at the position of not in welfare and treated unjustly. The mutual cooperation and

readiness to sacrifice in the society should be developed and implemented to support the services for the criminal victims. Especially many of the criminal victims from the group of that is weak mentally, physically and social economy, and need compensation soon.<sup>11</sup> If viewed from the human right perspective, the victims interest is part of human right problem in general. The universal principle as contained in the universal declaration of human right (December 10 1948) and The international covenant on civil and political right (December 16 1966)<sup>12</sup> recognized that all persons are equal before the law and have right for equal legal protection without any discrimination. Each action that violates the human right is protected by national laws and regulations.<sup>13</sup>

In the article 9 subsection (5) from the Covenant, has been laid down the compensation that prioritize "anyone who has been the victim of the unlawful arrest or detention shall have enforceable right to

compensation". The formulation above then be supported with the convention that against the Transnational Organized Crime, 2002, where in the Article 25 give principles that the states should take appropriate steps in the form of means to give help and protection to the victims that included in the convention<sup>14</sup>

There are some restitution protections, rehabilitation and reintegration<sup>15</sup>. Basically, the victims protection to overcome the felt impact as the consequences of the crime to them. From the explanation above, the rights of the victims are inclusive as the criminal victims, so in efforts to handle the human trafficking in harmony with the prevailing provisions, although principally the Law PTPPO give more priority to the human trafficking. While the victims rights at the Law PTPPO give emphasis to the protection of the witness and victims to get their rights as the victims of human trafficking.

### **3) Protection of the human trafficking of Indonesian and foreign citizens**

---

<sup>11</sup> Ibid. page. 216-218

<sup>12</sup> The international covenant on civil and political rights (December 16 1966), quoted from Soeparman, Parman, Haji, Op. Cit. page 51

<sup>13</sup> The Universal declaration of human right, United nations general assembly, December 10 1948. quoted from Soeparman, Parman, Haji. Ibid

---

<sup>14</sup> Soeparman, Parman, Haji, Ibid

<sup>15</sup> Muladi and Barda Nawai Arif. Potpourri of Criminal Law (Bandung: Alumni 1992) page 78

The state responsibilities to the foreign citizen is the controversial problems in the international law, because there are two different perspectives, developed and developing countries perspectives. The developing countries tend to not recognize the special treatment to the foreign citizens. They emphasize the treatment as for their own citizen. The developed countries in general want more protection to their citizen abroad.

In article 1 of declaration of human right stated that "all human beings were born free and with same dignity and rights. They are given mind, heart, and should act to human being in the brotherhood spirit". Along with the above explanation, Adnan Buyung Nasution stated: "Human Right Declaration has double meaning, among the nation and intra nations, prevail for all governments and nations.

The outward meaning in the form of commitment to mutual respect and honor the human dignity among the nation so will be prevented and not trapped in the war disaster that able to destroy humanity values.

While inward meaning, define that the human right declaration should objective for the people of each countries in asses each policy that is issued by their government.<sup>16</sup>

The perspective above implicitly stated that the protection and honor to human being is not addressed to the citizen only, but should be developed and aimed at each person in a country, their own citizen or foreign citizen.

In this case, the state committed that each citizen should be treated well and just and equally before the law, and also in the meaning whether he is suspect or victims of the crime, the humanity as the philosophical value of Pancasila present in all legal conditions in Indonesia, from Constitution 1945 to the laws and regulation under it<sup>17</sup> Article 1 subsection (2) of Constitution 1945 stated "the sovereignty at the people hand and is implemented based on the constitution". Base on this, the people have

---

<sup>16</sup> Adnan Buyung Nasution in Peer Baehr, et al, Instrument international, the basics of human rights (Jakarta: Yayasan Obor 1997) page xx

<sup>17</sup> Bambang Poernomo, Law and Victimology, in Tri Hermintadi, Victim Interest in the Criminal Judicature from victimology perspective. [www.badilag.net](http://www.badilag.net)

authority to control and criticize the state to implement task as the people servant.

Article 71 of Law No 39 Year 1999 stated:

“The government shall respect, protect, uphold and promote human rights”

The victim protection including activities: repatriation, include giving legal aid and advice, rehabilitation, integration and empowerment to make the victims not be trapped again in the trafficking.

The human trafficking victims rights do not run effectively because:

1. Commitment of the stakeholders especially state in making effective the services functions with some related policies with the function.
2. There is no agreement among countries in handling the trafficking victims, not only Indonesian citizen but also foreign citizens

#### **4. CLOSING**

##### **a. Conclusion**

- 1) State should responsible to the human trafficking victims, because essentially the victims are human being of the God creature, which

their presence as the caliph in the earth. No reason which acknowledge and legalize the human trafficking and the state responsibilities as the power and authorities holder that should honor the human dignity especially the human trafficking victims. State has responsibility to participate actively in various condition improvement and policies for the advancement and protection of human rights. The responsibility can not be reduced with political, economical, or cultural reasons. It can be expected that the norm not implemented concretely in protecting the citizen from the human trafficking especially for women and children.

- a) The state responsibility concept that should sift become service provision concept in the implementation is not regulated firmly its function and role of the institution in the government structure so still

there is ego sector, the condition make the victim rights for the justice is lack because only those who report that get the services, while the real responsibility is to all victims without exception.

- b) The responsibility form to the victims so far is giving compensation, restitution, and other services by refer to Law No 13 Year 2006 about witness protection. In effort to give legal protection for the human trafficking victims, the honor for the human rights cannot be fully embodied and there is tendency to ignore the victims, including their family because of the weak victims in defending their self esteem because of the low education, poverty and inequality development.
- c) Law of PTPPO is difficult to uphold, because the law do not have implementing regulations,

beside that have juridical consequences, related with the many other laws and regulation such as Law of Children Protection, Law of Immigration, Criminal Code, Labor, Citizenship, Witness and Victims Protection, and the placement of women migrant worker in abroad. And Law of PTPPO included the cross sector especially if the found victims also as the doer of human trafficking.

- d) There is void/haziness of regulation norms that relates with the human trafficking especially the state responsibility to the victim especially that relate with the giving of 1) norm of children protection 2) compensation to the victims. So beside the compensation to the victim is the indemnity, the indemnity given by state as the services



payment, because the state responsible and have duties morally to protect the people. The rights because of the state is considered as fail in preventing and protecting the citizens from the human trafficking 3) no repatriation norms.

- e) The institution to handle the victims is the task force for prevention of the human trafficking, the weaknesses of the task forces. In some areas are not active even not all provincial areas form the task force to prevent the human trafficking or if it is established, no budget to support it. The understanding about the taskforce just as small group of committee that handle an event and not permanent, beside that the work mechanism only coordination and often

experience obstacles when facing the human trafficking.

## **2) Reason for the victims to ask the state responsibilities are:**

- a) State as an entity that is formed based on the agreement of citizen and given mandate to protect the citizen and person in the states suitable with the formation of the state.
- b) The victims rights, in implementation refer to Law of Witness and Victims that regulate about the crime victims in general, even the trafficking victims are person, they are specific and need special treatment
- c) The victimology aspect to the human trafficking, in general the victims often be ignored because the laws give more focus to the doers, the victims often be categorized as part of the crime emergence, and also from the victimology view, the

approach often emphasize to the victim interests.

- d) The victims rights between Indonesian citizen and foreign citizens essentially are the same and no differences (discrimination) but the understanding shift because foreign citizen, the taken decision to facilitate the process by deportation.

- 3) Institutional aspects are revitalizing the task force for prevention and handling the human trafficking, by forming a more effective National Agency For Human Trafficking Eradication
- 4) Support the government to form Witness and Victims Protection Institution at Provincial Area in Indonesia

## **b. Recommendation**

- 1) Affirm the state responsibility concept based on the humanity, justice, and equality values for all Indonesian citizen
- 2) The aspects of laws and regulation are:
  - a) Revises Law No 21 Year 2007 about PTPPO, that is adding the article: children, women trafficking, complete the void repatriation norms
  - b) Issues the implementing regulation of the Law No 21 Year 2007

## LITERATURES

Asbjorn Eide, Economic, Social and Cultural Rights as Human Rights, A Textbook, Martinus Nijhooff, Dordrecht, 1995, Boston. London

Bagir Manan, Presidential Institution, 2006, Faculty of Law, UII Press, Jogjakarta.

F, Isjwara, Introduction to Political Science, 1971. Bina Cipta Publisher, Bandung.

Isrok and Dhia Al Uyun, State Science Run In the Abstract World, 2010, UB Press, Malang.

Johan Bahder Johan Nasution, Legal Research Method, 2008. Mandar Maju, Bandung.

Mac Iver. The Modern State, 1950. Oxford University Press, London

Muladi and Barda Nawawi Arif. Potpourri of Criminal Law. 1992, Alumni, Bandung

Peter Baehr, et al, Instrument International of Basic Human Rights, 1997, Obor Foundation, Jakarta.

Philipus M. Hadjon, The legal protection to people, 1987. Bina Ilmu: Surabaya.

## JOURNAL

Soeparman, Parman, Haji, The Crime Victim Interest Viewed From Victimology Perspective, Varia Peradilan, Legal Magazine XXII No. 260 July 2007.

## LAWS AND REGULATIONS

Indonesia, Constitution of Indonesian Republic 1945

## Research Report

Sumiati Sahala "The Problem of Women and Children Trafficking Based on Convention Protocol T.O.C" Report of Scientific Writing, (National Legal Development Agency, Department of Law and Human Rights, Year 2004.

## Internet

Bambang Poernomo, Law and Victimology, in Tri Hermintandi, The Victim Interest in The Criminal Judicature System Viewed From Victimology Perspective. [www.badilag.net](http://www.badilag.net)